

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	CASE NO.	1:06 CR 416
	)		
Plaintiff,	)	JUDGE DONALD C. NUGENT	
	)		
v.	)		
	)		
LESEAN ROBERTS,	)	<u>MEMORANDUM OPINION</u>	
	)	<u>AND ORDER</u>	
Defendant.	)		

This matter comes before the Court upon Defendant, LeSean Roberts' *pro se* Motion for Relief from Judgment Denying 28 U.S.C. §2255 Pursuant to Fed. R. Civ. P. 60(b)(6). (ECF # 214). That motion is DENIED. Mr. Roberts asks this Court to re-visit its 2011 judgment denying relief under Section 2255 in so far as it declined to consider a retroactive claim under the Fair Sentencing Act. He argues that because the First Step Act has subsequently made portions of the Fair Sentencing Act retroactive, the Court should revisit its ruling on his Section 2255 motion. (ECF #172).

There is no reason to alter the Court's prior decision. That ruling was correct at the time it was issued and the Sixth Circuit denied Mr. Robert's request for a certificate of appealability on the ruling. (ECF #189). The subsequent enactment of the First Step Act did not create any new grounds for relief under Section 2255. If it had, Mr. Roberts would be required to obtain approval from the Sixth Circuit to file a successive motion. The proper means of requesting

relief under the First Step Act, however, is to file a Motion for Reduction of Sentence, which Mr. Roberts has already done. (ECF #205). As Mr. Roberts made all of same arguments for reduction of sentence in his request under the First Step Act, and the Court considered and denied that request on the merits, his current motion has also been rendered moot. (ECF #205, 212). Mr. Roberts has filed a notice of appeal on that ruling, which is currently pending before the Sixth Circuit, and the merits of his request will be addressed through that proper procedural route. The current motion, however, DENIED as untimely, procedurally improper, and moot.

  
DONALD C. NUGENT  
United States District Judge

DATED: May 9, 2019